Kerala Gazette No. 23 dated 6th June 1961

PART I A

Election Commission, India.

NOTIFICATION

New Delhi, dated the 27th May 1961/ Jyaistha 6, 1883 (Saka).

No. 82/1/60.—In pursuance of Section 111 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the final report dated the 17th April, 1961 of the Election Tribunal, Tellicherry.

District Court, Tellicherry,
17-4-1961/27-1-1883.

Subject:—Election Tribunal, Tellicherry—Kerala Legislative Assembly, Irikkur Constituency—Election Petition No. 1 of 1960—Shri Moidu Haji v. Shri T. C. Narayanan Nambiar—Withdrawal from prosecution—Report under Section 111 of the Representation of the People Act.

This application was filed by the defeated candidate in the election to the Kerala Legislative Assembly from the Irikkur Constituency praying mainly for scrutiny and recount of the ballot papers and a declaration that he has been elected as in fact, he has got a majority of legal votas and that the respondent's election be declared void.

2. After the conclusion of the trial I passed a preliminary order on 18-10-1960 allowing a recount subject to certain conditions. But it was set aside by the High Court in its order dated 10-2-1961 in O. P. No. 1385/60 by which the High Court directed me under Section 227 of the Constitution to take up this petition and dispose it of afresh according to law and in the light of the observations contained therein. Pursuant to this order, when the petition was taken up for fresh disposal, the petitioner filed I. A. 25/61 stating that he did not desire to further prosecute the petition, that he may be permitted to withdraw his Election Petition and that the security of Rs. 1000 furnished by him be returned to him. Notice of this application was then given to the respondent and published in the Kerala Gazette, dated 14th March, 1961 afixing 23-3-1961 as the hearing date, as required under Section 109 (2) of the Representation of People Act, 1951.

3. The petitioner and the respondent were the sole contesting candidates to the election under reference and I was also satisfied that the petitioner has not been induced by any bargain or consideration which ought not to be allowed.

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So by my order, dated 23-3-1961, the petitioner was granted leave to withdraw. In view of the mandatory provision contained in Section 110 (3) (a) regarding costs and as the whole of the trial has already been gone through, I ordered the petitioner to pay the respondent's costs in the Election Petition including Council's fee of Rs. 150.

4. Notice of the withdrawal was thereafter published in the Kerala Gazette, dated 28-3-1961 so that any person who might himself have been a petitioner may within 14 days of such publication apply to be substituted as petitioner in the place of the party withdrawing. But so far no one has applied to this court for substituting him as a petitioner under Section 110 (3) (c) though the statutory period of 14 days allowed has already elapsed. So I am submitting this report under Section 111 of the Representation of the People Act, 1951.

E. V. VISWANATHA AYYAR.
Member,
Election Tribunal, Tellicherry.

By order,
K. S. RAJAGOPALAN,
Under Secretary to the Election Commission.